

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

June 8, 1953

To Honorable Burton M. Cross, Governor of Maine
Re: Harness Racing Commission — Membership

This office has been asked for an interpretation of Chapter 402, P. L. 1953, which Act amends Section 1, Chapter 77 of the Revised Statutes, to provide that:

“One member (of the State Harness Racing Commission) shall, in some capacity, be connected with agricultural societies which operate pari mutuel racing.”

Frederick A. Howell, presently a member of the State Harness Racing Commission, states that he is a member of the Androscoggin Agricultural Society and a member of the Cumberland Farmers Club, both of which associations operate pari mutuel harness racing meets.

The question is asked if Mr. Howell, as a member of the societies referred to above, has sufficient connection with an agricultural society operating pari mutuel racing, to qualify by virtue of such membership for re-appointment as a member of the Harness Racing Commission.

It is our opinion that Mr. Howell's membership in the agricultural societies mentioned above is sufficient to bring him within the phrase “in some capacity”, contained in Chapter 402, P. L. 1953.

We do not believe that the statute should be construed to require that a person, to be eligible for appointment to the Harness Racing commission, must be an officer in an agricultural society which operates pari mutuel racing, but rather we believe it would be sufficient if the person is an active member of such a society, and displays an interest in the welfare of the society.

It is our opinion, therefore, that Mr. Howell would be eligible under the 1953 amendment (assuming that he meets other requirements) to re-appointment.

ALEXANDER A. LaFLEUR
Attorney General

June 11, 1953

To Harold I. Goss, Secretary of State
Re: Movement of Used Cars. Rules and Regulations

You ask for opinions relative to the sixth paragraph of Section 35 of Chapter 19 of the Revised Statutes and Section 8 of Chapter 19 of the Revised Statutes.

Section 35 of the Revised Statutes deals with the inspection of motor vehicles and the stickers which are placed on the windshields of automobiles as the result of such inspection.

Herewith quoted is the sixth paragraph of Section 35:

“The secretary of state or authorized agent may issue a permit to owners of motor vehicles which are not inspected to enable them to

move such vehicle from garage or storage place to the nearest inspection station for the purpose of complying with this law.”

You ask if your department, under Section 35, has the authority to issue to a dealer in second hand vehicles a permit to drive such vehicles purchased in another State to the dealer's garage or place of business in this State without having an inspection sticker attached thereto or without such dealer's having such cars inspected at the nearest inspection station within this State.

It is our opinion that the answer to this question is, No. Our reason for this answer is the presence of the fourth and fifth paragraphs of Section 35. The fourth paragraph provides that said inspection shall not apply to motor vehicles owned and registered in another state nor to new motor vehicles being driven by a dealer or his authorized representative from the point of distribution to his place of business. By referring specifically to new motor vehicles it is clear that the legislature meant to exclude used motor vehicles. Further evidence of this exclusion is present in the paragraph immediately following that above quoted, which refers to both new and used motor vehicles and which shows that if the legislature had intended that used motor vehicles be included in the paragraph above quoted, then it would have so stated.

Paragraph 6 of Section 35 would appear to be a limitation on the authority of the Secretary of State to issue permits to uninspected motor vehicles.

Having answered this question in the negative, it becomes unnecessary for this office to answer the second question, relating to the general movement of such used vehicles from without the State.

With respect to your question relating to Section 8 of Chapter 19 of the Revised Statutes, which section relates to rules and regulations promulgated by the Secretary of State, it is the general rule that such rules and regulations are valid only when they lead to the achievement of the results set out by the legislature. Any rule or regulation that is inconsistent with the statutes is invalid. It is our opinion, based upon the answer to the foregoing questions, that a rule or regulation which would allow your department to issue permits for the moving of used motor vehicles from without the State to the garage or place of business of the dealer in used cars in this State, without such vehicles having been inspected, would be inconsistent with the statutes relating to the inspection of motor vehicles, and for that reason would be invalid.

JAMES G. FROST
Deputy Attorney General

June 16, 1953

To General Spaulding Bisbee, Director of Civil Defense

Re: Appointments

We have your memo of June 10th and attached letter from James Lassiter, Deputy Director No. 1, Oxford County, in which letter Mr. Lassiter asks if the selectmen of a town can relieve the Civil Defense Director and replace him with another man after a state of emergency has been declared by the Governor.